



Reprinted
February 4, 2003

SENATE BILL No. 455

DIGEST OF SB 455 (Updated February 3, 2003 2:27 PM - DI 69)

Citations Affected: IC 10-1; IC 10-2; IC 10-4; IC 10-9; IC 34-30.

Synopsis: Various Title 10 provisions. Specifies the criminal intent necessary to commit offenses concerning the criminal justice data division and the emergency management and disaster law. Defines "armory" for purposes of the Indiana military code. Specifies that the state militia consists of persons at least 18 years of age instead of males between the ages of 18 and 45. Provides, for purposes of the law exempting an officer or enlisted man on duty in the Indiana national guard from arrest on any civil process, that: (1) an attachment for contempt for failure to obey the command of a subpoena to testify is a civil process; and (2) a citation for a traffic violation is not a civil process. Provides that if a county executive does not have a president, a member of the county executive appointed from its membership is a member of the county emergency management advisory council. Requires the affirmative vote of at least eight of the 15 voting members of Indiana emergency management, fire and building services, and public safety training foundation for the foundation to take action. Repeals the interstate civil defense and disaster compact and the interstate earthquake emergency compact. Makes conforming amendments.

Effective: July 1, 2003.

Kenley

January 21, 2003, read first time and referred to Committee on Judiciary.
January 30, 2003, amended, reported favorably — Do Pass.
February 3, 2003, read second time, amended, ordered engrossed.

SB 455—LS 7703/DI 69+



C
o
p
y

Reprinted
February 4, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 455

A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-1-2.5-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. It is the intent of this
3 chapter to provide information and data with reference to the total
4 criminal justice system that will be equally beneficial to all officers,
5 agencies, and components of ~~said the~~ system so that each may better
6 perform ~~his or its~~ **their** respective duties for the overall improvement
7 of criminal justice. Rules ~~and regulations~~ adopted ~~pursuant to~~ **under**
8 this chapter shall be drafted so as to express this intent. Any public
9 official required by ~~said the~~ rules ~~and regulations~~ to report to the
10 division who fails to comply with the requests of the superintendent for
11 ~~such the~~ information or data, or with the governing records and
12 systems and equipment and their maintenance may, at the discretion of
13 the director of the criminal justice planning agency, be denied the
14 benefits of the system until meeting minimum compliance with ~~said~~
15 ~~regulations. the rules.~~ An official who knowingly, **intentionally, or**
16 **recklessly** makes a false return of information to the division commits
17 a Class A misdemeanor.

SB 455—LS 7703/DI 69+



C
o
p
y

SECTION 2. IC 10-2-1-2 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: Sec. 2. The definitions appearing in this
 section shall apply to words in this article, unless otherwise apparent
 from the context and are subject to organization modification as
 adopted by regular army and regular air force troop structures which
 are incorporated in this article by reference:

**"Armory" means real property and facilities located on the real
 property that are used by the military or naval forces of the state
 for drill, meeting, training, and rendezvous purposes.**

"National guard" means the Indiana army national guard and the
 Indiana air national guard.

"Company", "troop", "battery", "squadron", "battalion", "air-group",
 "regiment", "battle group", "wing", and "division", where referred to in
 this article, shall have the same meaning as comparably used in the
 national military establishment.

"Commanding officer" denotes a company, troop, battery, squadron,
 battalion, air-group, regiment, battle group, wing, or division
 commander.

"Court martial" means a military or naval court of justice for the
 trial of cases within the jurisdiction of the armed forces of the state of
 Indiana, as provided for in this article.

"Federally recognized national guard" denotes that portion of the
 Indiana national guard which has met all the requirements for, and has
 been recognized by, the national military establishment as a part of the
 reserve components of the armed forces of the United States.

"General orders" shall mean the official instructions issued by the
 military department of Indiana for the information and guidance of all
 concerned.

"Headquarters" shall mean the office of the appropriate commander.

"National guard" may apply to the national guard of Indiana or the
 national guard of the United States according to the tenor of the
 appropriate section.

"Officer" shall mean commissioned officer, including warrant
 officer, in the armed forces of the state of Indiana.

"Organization", where used in this article, may mean unit or
 command.

"Regulations" shall mean the official rules of the appropriate
 department.

"State and federal property" shall mean state property, real or
 personal, owned by the state of Indiana or federal property owned by
 the federal government and consigned to the state of Indiana for use in
 its armed forces.



C
o
p
y

"Unit" where used in this article applies to military complements of a company, detachment, troop, battery, or any larger command organization.

SECTION 3. IC 10-2-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Pursuant to article 12, section 1 of the constitution of Indiana, the militia ~~shall consist~~ **consists** of all ~~able-bodied male~~ persons ~~between the ages of~~ **at least** eighteen (18) ~~and forty-five (45) years of age except such as may be those persons who are~~ exempted by the laws of the United States or of this state. ~~and said~~ **The** militia shall be divided into two (2) classes.

SECTION 4. IC 10-2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** On days of military duty the national guard, called out by proper authority, and performing military duty, shall be considered to be under military discipline. ~~and no~~ **An** officer or enlisted person ~~shall~~ **may not** be subject to be arrested on any civil process during the time aforesaid.

(b) For purposes of this section:

(1) an attachment for contempt for failure to obey the command of a subpoena to testify is a civil process; and

(2) a citation for a traffic violation is not a civil process.

SECTION 5. IC 10-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Fines may be collected in the following manner:

(1) By the retention of any pay or allowances due or to become due from the state. ~~of the United States.~~

(2) By commitment to a jail designated by the reviewing authority until such fine shall have been paid, or until one (1) day shall have been served for each one dollar (\$1) of the fine imposed.

(3) By payment to the treasurer of the county, who shall then forthwith transmit said sum to the treasurer of state. The treasurer of state shall then quarterly pay such sums to the armory board of the state of Indiana, and such sums are hereby appropriated continuously for the purposes of IC 10-2-2-16.5. It shall be sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.

(b) Sentence of imprisonment imposed by the courts-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. Sentence of imprisonment imposed by courts-martial upon persons not in active service or at camps of

C
o
p
y



instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.

SECTION 6. IC 10-4-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The director of each local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within this state for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management program and state emergency operations plan. In time of emergency it shall be the duty of each local organization for emergency management and the department to render assistance in accordance with the provisions of such mutual aid arrangements.

(b) The director of each local organization for emergency management and disaster may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or its political subdivisions and shall carry out arrangements or any such agreement relating to the local and political subdivision.

(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the concurrence of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on an unijurisdictional basis, such as the following:

- (1) Small or sparse population.
- (2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.
- (3) Unusual vulnerability to disaster as evidenced by a past history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.
- (4) The interrelated character of the counties in a multicounty area.

C
o
p
y



(5) Other relevant conditions or circumstances.

(d) If the governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, the governor shall take steps to that end as are desirable. If action under this subsection is taken with jurisdictions that have enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, any resulting agreement or agreements may be considered supplemental agreements pursuant to article ~~6~~ 7 of that compact.

(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate pursuant to subsection (d) have not enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for its making does not otherwise exist, becomes effective only after its text has been communicated to the legislature and so long as no house of the legislature has disapproved the agreement either by the adjournment of the next ensuing session which is competent to consider the agreement or within thirty (30) days of submission of the agreement, whichever is longer.

SECTION 7. IC 10-4-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Each political subdivision within this state shall be within the jurisdiction of and served by a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) Each county shall maintain a county emergency management advisory council and a county emergency management organization or participate in an interjurisdictional disaster agency which, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

~~(c) In whatever county in this state a county emergency management advisory council does not exist by March 6, 1951, it is directed that a county emergency management advisory council be organized under the temporary chairmanship of the executive of the county seat, with the assistance of all other city and town executives in the county, the president of the county fiscal body, and the president of the county executive.~~

~~(d)~~ (c) The county emergency management advisory council shall consist of the following individuals or their designees:

(1) The president of the county executive ~~or, if the county~~



C
o
p
y

executive does not have a president, a member of the county executive appointed from the membership of the county executive.

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located within the county.

(5) Representatives of ~~such~~ private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, or as may be added later by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

~~(e) Upon the organization of the county emergency management advisory council and the selection of a chairman from its membership, the organizing group shall be dissolved.~~

~~(f)~~ **(d)** The county emergency management advisory council shall exercise general supervision and control over the emergency management and disaster program of the county and shall select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who shall have direct responsibility for the organization, administration, and operation of the emergency management program in the county and shall be responsible to the chairman of the county emergency management advisory council.

~~(g)~~ **(e)** Any provision of this chapter or other law to the contrary notwithstanding, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if ~~he~~ **the governor** finds that the establishment and maintenance of an agency or participation in one is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services under other provisions of this chapter.

~~(h)~~ **(f)** Each political subdivision ~~which that~~ does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery.

~~(i)~~ **(g)** The county emergency management and disaster director and



personnel of the department may be provided with appropriate office space, furniture, vehicles, communications, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other county agencies.

~~(h)~~ **(h)** Each local or interjurisdictional agency shall prepare and keep current a local or interjurisdictional disaster emergency plan for its area.

~~(i)~~ **(i)** The local or interjurisdictional disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

~~(j)~~ **(j)** Each political subdivision may:

(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster resulting from enemy attack; provide for a comprehensive insurance program for its emergency management volunteers; and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal civil defense agency and the state emergency management agency;

(2) appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other emergency management and disaster workers;

(3) establish a primary and one (1) or more secondary control centers to serve as command posts during an emergency;

(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management and disaster purposes and within or outside of the physical limits of the subdivision; and

(5) in the event of a national security emergency or state of emergency as provided in section 7 of this chapter, waive procedures and formalities otherwise required by law pertaining to the performance of public work, the entering into of contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental

C
o
p
y



1 of equipment, the purchase and distribution of supplies, materials,
 2 and facilities, and the appropriation and expenditure of public
 3 funds.

4 SECTION 8. IC 10-4-1-21 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. A person who
 6 **knowingly, intentionally, or recklessly** violates this chapter commits
 7 a Class B misdemeanor.

8 SECTION 9. IC 10-9-2-3, AS ADDED BY P.L.178-1999,
 9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2003]: Sec. 3. (a) A quorum consists of eight (8) of the voting
 11 members of the foundation described in section 2(b)(2) through 2(b)(6)
 12 of this chapter.

13 (b) One (1) of the following is necessary for the foundation to take
 14 action:

15 (1) An affirmative vote by at least ~~a majority of the quorum~~ **eight**
 16 **(8) of the fifteen (15) voting members.**

17 (2) A tie vote broken by the executive director.

18 SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE
 19 JULY 1, 2003]: IC 10-4-2; IC 10-4-3; IC 34-30-2-38.3.

C
o
p
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 455, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 5 through 37.

Page 4, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 7. IC 10-4-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The director of each local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within this state for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management program and state emergency operations plan. In time of emergency it shall be the duty of each local organization for emergency management and the department to render assistance in accordance with the provisions of such mutual aid arrangements.

(b) The director of each local organization for emergency management and disaster may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or its political subdivisions and shall carry out arrangements or any such agreement relating to the local and political subdivision.

(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the concurrence of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on an unijurisdictional basis, such as the following:

- (1) Small or sparse population.
- (2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.
- (3) Unusual vulnerability to disaster as evidenced by a past

SB 455—LS 7703/DI 69+



C
o
p
y

history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.

(4) The interrelated character of the counties in a multicounty area.

(5) Other relevant conditions or circumstances.

(d) If the governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, the governor shall take steps to that end as are desirable. If action under this subsection is taken with jurisdictions that have enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, any resulting agreement or agreements may be considered supplemental agreements pursuant to article ~~6~~ 7 of that compact.

(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate pursuant to subsection (d) have not enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for its making does not otherwise exist, becomes effective only after its text has been communicated to the legislature and so long as no house of the legislature has disapproved the agreement either by the adjournment of the next ensuing session which is competent to consider the agreement or within thirty (30) days of submission of the agreement, whichever is longer."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 455 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.



SENATE MOTION

Mr. President: I move that Senate Bill 455 be amended to read as follows:

Page 8, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 9. IC 10-9-2-3, AS ADDED BY P.L.178-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A quorum consists of eight (8) of the voting members of the foundation described in section 2(b)(2) through 2(b)(6) of this chapter.

(b) One (1) of the following is necessary for the foundation to take action:

(1) An affirmative vote by at least ~~a majority of the quorum~~ **eight (8) of the fifteen (15) voting members.**

(2) A tie vote broken by the executive director."

Renumber all SECTIONS consecutively.

(Reference is to SB 455 as printed January 31, 2003.)

KENLEY

C
o
p
y

